IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 3818 OF 2005

Mohd. Arif Mohd. Rafiq Shaikh
@ Tedi @ Ahmed ...Applicant

Versus

The State of Maharashtra ...Respondent

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Ms. Anjali Patil Contractor Adv. for Applicant
Ms. S.V. Gajare, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.
DATED: 30TH AUGUST, 2005

P. C.:-

1. Heard both sides.

2. The applicant is seeking bail in C.R. No.I-210 of 2004 registered with Naupada police Station, Thane. The said case is under Sections 395 and 397 of I.P.C.

3. The learned advocate for the applicant has submitted that there is no recovery at the instance of the applicant and the only material against the applicant is identification by the complainant in the parade. She has submitted that there is abnormal delay in holding parade. She has further submitted that the incident in the present case had taken place on 17.5.2004, the applicant was arrested on transfer warrant on 19.1.2005 and the T.I. parade was held on 21.3.2005. She has further submitted that the identification of the applicant in the parade which

was held belatedly cannot be relied upon and hence, bail may be granted to the applicant.

4. The learned advocate for the applicant has also submitted that the trial in respect of four of the other accused in the very same case is over and the other accused have been acquitted in the said case. She has submitted that it is the prosecution case that four persons committed robbery and four persons have already been acquitted in the other case. Thus, she submitted that when four persons had already been arrested in the said case and the said four persons had already been acquitted the applicant could not have been involved in the said case. I do not find much merit in this submission because the said four persons had been acquitted as they were not the persons involved in the offence whereas the present applicant may be one of the actual culprit in the present case.

5. Ms. Patil also submitted that the other four accused were tried separately and the applicant was not tried with the other accused because it was the prosecution case that only four persons took part in the robbery. Thus, according to her, all these facts clearly show that the applicant is falsely implicated in the present case. It may be that the four persons may be shown as accused in the said case and they

have been acquitted, the present applicant was arrested much later and hence, he was not tried alongwith the other accused. The evidence in respect of the other accused may have been insufficient and therefore, they may have been acquitted in the said case. As far as the present applicant is concerned, it is seen that the complainant identified him in the parade. No doubt that there is some delay in holding the parade however, it appears that delay has been caused because the applicant could not be traced earlier. After his arrest the parade has been held within two months. This Court has held in the case of **Rajababu s/o Buchayya Adluri & Anr Vs. The State of Maharashtra reported in 200 ALL MR (Cri.) 953,** that even when there is delay of 16 months in holding the T.I. parade, it would not be sufficient ground to discard the evidence of the witness regarding identification of the accused. Thus, I do not find much substance in the submission that as there was delay in holding parade, the identification of the applicant in such parade cannot be relied upon.

6. Besides this, the learned A.P.P. has pointed out that the applicant is also involved in two other cases of similar nature.

7. Looking to all the above facts, I am not inclined to grant bail to the applicant. Application is

rejected.

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